



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

December 23, 2014

Mr. Michael Fulton
Director
Water Quality Division
Arizona Department of Environmental Quality
1110 West Washington Street
Phoenix, Arizona 85007

Re: EPA's SFY14 End of Year Assessment

Dear Mr. Fulton:

Please find enclosed EPA's final ADEQ Water Quality Division SFY14 End of Year Assessment, which describes ADEQ's performance and accomplishments in meeting the commitments established in the SFY14 Integrated Workplan, covering the period July 1, 2013, through June 30, 2014. We appreciate the comments you provided to us on the draft report on December 12, 2014 and fully considered them in finalizing the assessment. We look forward to continuing to work together to advance improvements in water quality in SFY15.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jane Diamond", is written over a horizontal line.

Jane Diamond, Director
Water Division

Enclosure

ADEQ Water Quality Division (WQD) SFY14 EOY Assessment

The following summary reviews ADEQ's performance for SFY14. The evaluation is based on commitments in the workplan, reports/submittals and considered information gathered during ongoing program conference calls.

Administration

Revenue: ADEQ Water Quality Division (WQD), hereafter "ADEQ", lost fiscal/general fund support from the state legislature in 2008 and relies heavily on federal funds to operate. Federal funds (\$10M+) represent more than 50% of ADEQ's operating budget. ADEQ receives approximately \$4.8M annually through several EPA grants to implement water programs, excluding the State Revolving Funds. ADEQ began collecting AZPDES permitting fees in FY11 and is moving forward with operator certification fees and evaluating fees for design review, and a drinking water administrative fee. However, even where fee collection has been successful, the legislature has swept the fee money from ADEQ to balance other budgets.

WIFA is a separate state agency charged with implementing the Clean Water and Drinking Water State Revolving Funds. Fees are collected by WIFA as part of the loan process. ADEQ uses Drinking Water State Revolving Fund (DWSRF) setasides (\$4.6M) and had used Water Infrastructure Financing Authority (WIFA) fees (up to \$5M) to supplement grant funds. Use of WIFA fees to offset general funds was a concern to EPA as it limited WIFA's ability to meet administrative costs and provide technical assistance to water and wastewater systems. Over the last 5 years, we urged and have worked with ADEQ to reduce and eliminate the transfer of WIFA fees.

Workplan and Grants: The bulk of federal funding is awarded annually through a Performance Partnership Grant (PPG) which combines CWA 106, PWSS and NPS funds. ADEQ also receives a separate monitoring grant and NPS projects grant. ADEQ develops an annual integrated workplan covering all activities and commitments for federally and non-federally funded tasks, and is based on a SFY (July 1- June 30). The lack of a timely federal budget continues to make it extremely challenging for ADEQ to plan and make commitments (in January for the following grant year) based on projected grant funds, thus commitments are often conservative. The draft workplan is reviewed by the relevant program leads and managers (Water and Enforcement), and followed by discussion/negotiations (in some cases, formal meetings). Previous year activities and commitments are considered to determine technical capacity and program successes and priorities. Priority setting amongst core program activities is often the focus of discussions as well as collaboration across programs. The integrated workplan provides a comprehensive look at the work being performed by ADEQ; however, tracking specific activities and expenditures is more difficult for each of the EPA grant project officers. EPA and ADEQ have implemented several changes over the last two years to improve reporting and accountability; but continued discussions are ongoing. As part of a larger effort, EPA has evaluated the tasks funded by the setasides to ensure they are eligible under SDWA §1452(g)(2) and §1452(k).

Staffing: The ADEQ WQD currently has 125 staff and is constantly recruiting to fill priority vacancies.

Rule Making: All agencies in Arizona have been bound by a Governor's rules moratorium since 2009. The Governor may grant an exception if the regulatory change lessens or eases a regulatory burden. ADEQ is thus unable to adopt new/revised drinking water regulations, NPDES pretreatment and Concentrated Animal Feeding Operation (CAFO) regulations, water quality standards and listing criteria. This has hindered implementation, e.g., the lack of approved antidegradation procedures to use for the proposed Rosemont project on impacts to Davidson Canyon and Cienga Creek, Outstanding Arizona (Tier 3) waters and EPA retains primary enforcement authority for federal rules that have not been adopted and codified in State law (i.e., Lead and Copper Rule Short Term Revisions). The ADEQ WQD maintains a list of regulatory changes needed and may seek approval of minor water quality standard changes in SFY15.

EPA Oversight: EPA and ADEQ's partnership is formalized in the Arizona Accord. The Accord is an agreement describing our relationships and joint efforts to protect human health and the environment. This supplements MOAs associated with program approval and delegation. EPA program leads hold monthly or quarterly calls with ADEQ program counterparts as well as an official midyear and end-of-year reviews. EPA Water Division and EPA Enforcement Division work together to oversee program implementation.

The workplan defines outputs and reporting. Review of outputs is by the program. Separate accountability tools are used as well to assess progress, e.g. monthly ICIS reports on permit issuance, or routine program calls. With multiple funding sources, the various grant projects officers also coordinate efforts. Although the annual SRF grant is awarded to WIFA, the SRF PO coordinates with the ADEQ PPG PO and program leads to ensure effective accountability.

Clean Water Act

Ambient Monitoring

The Monitoring Unit is responsible for collecting water quality data for Arizona's streams, lakes, and groundwater. Starting in September 2014 this Unit will also be responsible for preparing Arizona's 303(d) list and 305(b) integrated Report. Water quality monitoring is intended to characterize baseline water quality conditions, support the 303(d) and 305(b) assessment process, evaluate compliance with water quality standards (WQS) and provide data to support the development of new and revised WQS and TMDLs. ADEQ uses a probabilistic monitoring design and covers the state in a 5-year cycle by monitoring in either the warm water (below 5000 feet) or cold water (above 5000 feet) sites each year.

In SFY14, ADEQ committed to conducting stream and lake monitoring per the SFY14 Sampling and Analysis Plan throughout Arizona, fish tissue sampling and to prepare a SAP for SFY 2015. ADEQ also committed to completing a report on physical integrity and intermittent streams, conducting nutrient monitoring in rivers and streams, effluent dependent water monitoring and participating in the National Aquatic Resource Survey (NARS).

In SFY14 ADEQ met their monitoring targets for all monitoring deliverables. They collected a total of 147 surface water samples and over 36 sites were sampled quarterly at primarily coldwater sites throughout Arizona. The ambient monitoring group also collected 51 groundwater samples in the Lower Gila and Harquahala basins.

ADEQ submitted the final reports for relative bed stability and intermittent streams and index of biological integrity (IBI). ADEQ continues to sample for biocriteria with a focus on nearly perennial streams, and is continuing to develop an IBI for intermittent streams. Work was completed for physical integrity to assess relative bed stability as a new standard.

Although not reflected in the 2014 EOY report, ADEQ has now fixed the issue with entering all surface water quality data into the STORET/WQX database on a quarterly basis (See Task 1.5.3 Deliverable 2c and 4 in SFY 2014 workplan, and March 2014 letter to Mike Fulton from Jane Diamond regarding data management). All data is flowing to WQX on a daily basis and all missing data is now loaded (265,000 surface water records, macroinvertebrate, and fish data were loaded).

In SFY15 EPA looks forward to continued progress in the following areas:

- Monitoring in the warm region (<5000 feet) and
- Coordinating with other ADEQ programs to integrate monitoring and assessment with work in priority watersheds.

Water Quality Standards

The Surface Water Section (SWS) is responsible for water quality standards (WQS) and policy development. The 2015 Integrated Work plan dedicates a total of \$99,606 EPA NPS and PPG funding to WQS deliverables. There is a “rules moratorium” in Arizona requiring most WQS actions to receive approval from the State Governor. This makes it difficult to revise Arizona WQS. Upon retirement of the standards unit manager, ADEQ absorbed the WQS unit staff into the Ambient Monitoring Group. The standards program responsibilities are shared among the division rules writer, senior technical advisor, senior hydrologist and the Surface Water Section manager.

In SFY14 ADEQ committed to completing work on: 1) finalizing implementation procedures for antidegradation and fish consumption standards; 2) to initiate and complete a WQS triennial review (public notice of revised WQS); and 3) to continue work on the lakes narrative nutrient standards.

ADEQ did not complete any work on their implementation procedures for antidegradation and fish consumption procedures, and has rescheduled completion for June and January of 2015, respectively, in the SFY2015 workplan.

ADEQ did not meet the April 2014 target date for completing the 2014 WQS Triennial Review, and the new target date is January 2015. ADEQ spent significant time on the draft WQS including sharing the draft with EPA in February 2014, verifying corresponding latitude and longitude descriptions for each listed waterbody in Sections 109.F (Waterbodies with Nitrogen and Phosphorus criteria), 112.G (Outstanding Arizona Waters) and Appendix B using aerial photos, and checking permits and effluent dependent water status in order to have consistent language describing reach descriptions.

ADEQ did not meet their deadline in the workplan to finalize the narrative lakes nutrient criteria and has moved the target date to June 2015. ADEQ provided data, assisted in database setup, troubleshooting and gave other support to the contractor re-evaluating the lakes narrative nutrient standards. ADEQ also attended the nutrients workshop in Sacramento in August to present updated findings.

Concerns:

EPA notes that ADEQ did not complete work on the implementation procedures for antidegradation and fish consumption tasks in 2013 or 2014, and the 2014 Triennial Review has taken longer than expected. EPA will be meeting quarterly with ADEQ to discuss progress on these items and other WQS work. If SFY 2015 milestones are not met, EPA will work with ADEQ to revise the workplan and/or reallocate money to other tasks as appropriate.

In SFY 2015 EPA looks forward to continued progress on:

- Finalizing antidegradation and fish consumption implementation procedures;
- Arizona's 2014 WQS Triennial Review starting the public comment period in November 2014; and
- Providing support to help ADEQ finalize their Lakes Narrative Nutrient Standards.

Water Quality Assessment and Total Maximum Daily Load (TMDL) Development

The TMDL and Assessment Unit is responsible for assessing statewide water quality data and developing the Arizona 303(d) list of impaired waters and 305(b) integrated report (IR). Starting in September 2014, the Unit will split up. TMDL development will merge with the Non-Point Source Unit to better integrate development of TMDLs and watershed implementation plans. Water quality assessment will move to the Monitoring Unit.

In 2014 ADEQ committed to submitting the 2012/2014 303(d) list to EPA for final approval; and to submitting six TMDL reports to EPA for final approval, and to public notice three additional TMDLS. Other commitments in the workplan included: data collection and analysis for TMDL development, and conducting effectiveness monitoring.

ADEQ did not meet their target date of 4/14 to submit the 2012/2014 303(d) list to EPA. ADEQ spent significant time meeting with stakeholders to resolve the 2010 Pinto Creek 4A appeal which was withdrawn in July 2014. ADEQ is expecting to submit the list to EPA for approval by December 2014.

ADEQ completed five TMDLs falling just short of their target to complete six TMDLs. The Lower San Pedro *E.coli* TMDL was approved by EPA in November 2013 (counts as three TMDLs), and the Little Colorado River *E.coli* TMDL (counts as two TMDLs) was approved in August 2013. In addition, the Watson Lake nutrient TMDL (counts as three TMDLs) was public noticed in April 2014.

While the ADEQ did not meet all of their targets, they completed other work including:

- Responding to comments from multiple stakeholders, and making significant revisions to Watson Lake TMDL targets;

- Revising the Granite Creek E.coli TMDL;
- Drafting the Gila River Selenium and Boron TMDL;
- Participating in Santa Cruz data assessment and watershed meetings;
- Preparing delist reports for the 2012/2014 303(d) and 305(b) report; and
- Participating in EPA HQ pilot test of the new WQ-27 and WQ-28 measures.

In SFY15, EPA looks forward to:

- Submittal of the Watson Lake and Granite Creek Nutrient and *E.coli* TMDLs to EPA;
- Submittal of the 2012/2014 integrated report to EPA; and
- Revision of Task 1.3.8.1 in SFY 2015 workplan to include ADEQ's participation in piloting the TMDL New Measures with EPA HQ.

NPDES Permitting

The principal task of the two permitting units in the Surface Water Section (SWS) is timely issuance of new and reissued permits to facilities subject to the CWA.

Highlights:

In FY14, ADEQ continued to issue permits in a timely manner, generally meeting the target of 90% current. ADEQ reported in their FY14 output report that 95% of permits are current; however, since the ICIS database is not up-to-date, it was difficult to confirm this result. EPA estimated ~89% current based on permit status data provided by ADEQ and ICIS. According to ADEQ, 31 permit renewals, one (1) new permit, and two (2) permit modifications were issued. In addition, one (1) permit was denied, two (2) were terminated, and two (2) renewal applications were withdrawn and the permits expired.

ADEQ also continued to issue permits of excellent quality, including appropriate technical and water quality-based requirements such as more sensitive methods for mercury and implementation of a new, more easily tracked and enforceable ammonia limitation (the ammonia impact ratio). Fact sheets were also clear and concise. A major accomplishment of FY14 was ADEQ's final issuance of the Nogales IBWC permit, which included more enforceable pretreatment requirements to help protect the treatment plant and its receiving water, the Santa Cruz River, from industrial pollutant discharges from Mexico.

ADEQ completed 8 audits of Phase II MS4 permittees, meeting the FY14 workplan target. These audits included reviews of stormwater management plans.

Concerns:

1. Reorganization: ADEQ reorganized in FY14, moving the wastewater permitting unit (AZPDES Individual Permits Unit) to the newly named Water Permits Section, coupling it with the Aquifer Protection Permits Units. Although this creates a positive opportunity to coordinate between both clean water act and safe drinking water act permitting programs, this reorganization has created distance between the wastewater and stormwater AZPDES permitting programs, as the Stormwater and General Permits Unit continues to be housed within the Surface Water Section. EPA encourages the AZPDES Individual Permits Unit and the Stormwater and General Permits Unit to continue to

coordinate and share information and will expect joint mid-year and end-of-year meetings to be held with EPA.

2. ICIS Permit Status Information: As indicated above, the ICIS database is still out of date regarding permit status information. In addition, most of the general permits are not listed in the database. EPA encourages ADEQ to update this information so that ADEQ can receive national credit for their accomplishments. ADEQ is participating in regular meetings with IT to resolve this issue.
3. ADOT MS4: ADEQ did not meet the schedule in the FY14 workplan to issue this permit in FY14. ADEQ provided EPA a draft permit for review and EPA subsequently sent comments to ADEQ on September 10, 2014.
4. Phase II MS4 General Permit: ADEQ established a new schedule for re-issuing the Phase II MS4 General Permit and held the first stakeholder meeting on May 21, 2014, but did not meet the milestone date (8/14) to provide EPA a draft permit for review. The anticipated date to finalize and reissue the permit is June 2015. EPA is concerned about the long delay in issuing the permit. The permit expired in 2007, and ADEQ explained in the FY14 end of year meeting that they were waiting until the 2010 Census to bring in more permittees; however, the planned issuance of this permit was listed in the FY12, FY13, FY14, and FY15 workplans. This issue was discussed on the September 4, 2014 ADEQ/EPA management call, where ADEQ agreed to follow-up on the draft permit status.

Other Updates:

1. At the ADEQ/EPA mid-year meeting, ADEQ and EPA agreed to remove the development of new general permits for groundwater remediation and discharges to urban lakes/reservoirs from the workplan. If resources allow, these may be developed in the future.
2. The FY14 workplan included a target of 8 Phase I MS4 SWMP reviews. This was clarified in the FY15 workplan as reviews of annual reports, not SWMPs. SWMPs are reviewed during audits.

Follow-up Actions:

1. ADEQ will include suggested changes to the FY15 workplan to reflect the revised issuance schedule for the ADOT MS4 permit.
2. ADEQ will follow-up on the status of the draft Phase II MS4 general permit and provide it to EPA.

Non Point Source (NPS) Program and Project (CWA 319) Management

The Grants and Outreach Unit in the Surface Water Section has the lead for the Non Point Source Program. The Program is comprised of program implementation and project oversight. Program implementation is based on a State Management Plan (SMP) which establishes objectives and activities to accomplish the objectives. Accomplishments are detailed in an

Annual Nonpoint Source Program Report. Project oversight includes the solicitation, award and oversight of projects to improve water quality.

ADEQ's Grants and Outreach Unit, which is now the Watersheds Protection Unit, has done a lot of great work this past year. We've seen an adoption of a new Performance Measure, an updated approvable NPS Management Plan, Targeted Watersheds are implementing projects, and fostering of great inter and intra agency coordination.

This past year DEQ adopted a Performance Measure "to improve water quality in 50% of monitored waters of the State over 5 years." This will be a driver for ADEQ and EPA to show water quality improvements in Arizona.

Krista Osterberg has put in an extraordinary amount of effort writing Arizona's 5-Year Nonpoint Source Management Plan. Current drafts of the Plan have shown ADEQ's commitment to improving water quality in Arizona. We expect to approve a final version Plan in October of 2014. Working on the Plan has delayed submittal of the NPS Annual Report, we understand finishing the Plan is the priority.

ADEQ has targeted 8 watersheds to focus NPS efforts in. All watersheds have begun NPS work, where each watershed has some level of work going on, from community planning to implement restoration projects, project applications, and project implementation. ADEQ continues to improve their funding timeline. In previous years, we saw 15 month turnaround from the time EPA awarded the grant to when ADEQ awarded NPS projects. ADEQ is now at 6-9 month turnaround and the goal is 3 months.

Interagency coordination is also a highlight from the past year. ADEQ Water staff has made significant progress in utilizing other state and federal agency resources to move the Hillside Mine remediation project forward. NRCS through NWQI, and the USFS through implementation coordination, have shown to be great partners in assisting implementation in targeted watersheds.

Region 9's Watersheds Office looks forward to working with the new Watersheds Protection Unit on implementing the states 5-Year NPS Management Plan.

Wetlands and 401

EPA reviewed the FY14 Final Output Report regarding 401 CWA actions. There is one Task 1.3.2: CWA 401 Certification Review of Federal Permits and Licenses. The deliverables require a table of the 401 certifications processed including the type of permit, project name, action and date of action.

ADEQ complied with Task 1.3.2 and provided a table of 401 actions.

The Wetlands Section does not conduct EOY meetings with ADEQ. To address issues regarding implementation of the 401 program, EPA staff work with ADEQ staff on a project-by-project basis to resolve water quality concerns.

Border

ADEQ operates and maintains an Office of Border Environmental Programs (OBEP) located in Tucson, AZ. They are responsible for border region and transboundary issues for all media activities along the US-Mexico Border Region.

ADEQ has provided excellent engineering support for our wastewater and drinking water projects in Arizona, with timely and useful review of project designs at various stages of project development, Value Engineering studies, and energy/water audit reports. In June 2014, our main border project engineer – truly our engineering eyes and ears on the ground in Arizona - left ADEQ, so there is currently a lull in this level of support. We look forward to hearing ADEQ's plans for backfilling this vacancy.

CWA Enforcement and Compliance

Inspections: The Water Quality Compliance Section (WQCS) and the Southern Regional Office Compliance Program Unit (SROCU) are responsible for all field work for the Division. ADEQ set a target of inspecting 50% of the major AZPDES permitted facilities (35 of 71) and 20% of the minor facilities (18 of 89) in SFY14. EPA's 2007 Compliance Monitoring Strategy (CMS) requires the inspection of majors once every two years (50%) and all minors inspected once in a 5 year cycle (20%). ADEQ inspected 26 major facilities and 36 minor facilities, thus exceeding the CMS goals for minor facilities, but missing the CMS goals for major facilities by 9 inspections. ADEQ has explained that when it became apparent at mid-year that its Alternate Compliance Monitoring Strategy (ACMS) would not be approved, the lateness in planning and unforeseen staff vacancies impacted its ability to inspect the remaining major facilities. ADEQ has hired more inspectors and expects to meet its inspection targets for major facilities in SFY15. Additionally, ADEQ and SROCU responded to 59 citizen complaints related to the Clean Water Act, resulting in 24 non-routine inspections. ADEQ still intends to pursue a risk-based ACMS (subject to compliance with EPA's 2014 CMS) in response to the AZ Auditor General's Report citing non-compliance by minors.

ADEQ exceeded its stormwater inspection targets of 50 industrial and 50 construction (30 Phase 1 and 20 Phase 2) inspections in SFY14 by conducting 153 industrial, 64 Phase 1, and 53 Phase 2 construction inspections. Although EPA's CMS sets goals of 10% of all industrial facilities and 5-10% CMS goals for construction facilities, EPA has agreed to lower commitments instead of seeking an inspection strategy. The CMS goals for the stormwater programs also include audits of MS4s. Responsibility for MS4 audits moved from ADEQ's Compliance Section to the Surface Water Section in SFY14. See the NPDES Permitting Section of this report for a discussion of SFY14 progress in the MS4 program.

AZ has 100 CAFOs statewide covered by AZ APP permits and 2 subject to AZPDES permits. ADEQ exceeded its SFY14 target of 1 CAFO inspection by conducting 35 CAFO inspections of its permitted and unpermitted facilities. ADEQ exceeded its SFY14 inspection targets for the biosolids program (5 POTWs and 8 land application facilities) with 6 POTWs and 9 land application facilities. ADEQ also exceeded its target of 26 annual report reviews submitted under the biosolids rule by conducting 34 reviews.

In SFY15, EPA looks forward to continued progress in developing stormwater field capacity as ADEQ and EPA have agreed that stormwater inspections are an area for improvement. Resource limitations, technical capacity, and number of inspectors will continue to be an issue in meeting stormwater inspection commitments. With limited resources, strategically focusing inspections is critical to ADEQ's program success. ADEQ and EPA will continue to communicate regularly on stormwater implementation.

Pretreatment Program: Arizona has delegated authority to implement the federal pretreatment regulations. Core regulatory duties are as follows:

- 1) Review all annual and semi-annual reports submitted by POTWs with approved pretreatment programs.
- 2) Conduct pretreatment compliance audits (at least once every five years for each approved POTW pretreatment program).
- 3) Conduct pretreatment compliance inspections (at least twice every five years for each approved POTW pretreatment program).
- 4) Perform annual inspections of POTWs with SIU-oversight-only pretreatment programs (at least once every five years for each program).
- 5) Review and approve pretreatment program submittals and modifications.

Additionally, there is a specific PPG target for ADEQ to support pretreatment work in the Ambos Nogales border region, as industrial wastewater from Mexico has caused or contributed to NPDES permit violations at the Nogales International Wastewater Treatment Plant (NIWTP). During SFY14, ADEQ continued to work with wastewater representatives in Nogales, Arizona, and Nogales, Sonora, to support implementation of the new pretreatment conditions in the NPDES permit issued to the NIWTP.

During SFY14, Arizona met all of their pretreatment targets. Specifically, ADEQ met its inspection targets (6 compliance inspections and 4 POTW SIU-oversight only inspections), auditing targets (2 pretreatment audits of approved pretreatment programs), and report review targets (16 annual/semi-annual reports). ADEQ also approved three new pretreatment programs during SFY14.

In SFY15, EPA looks forward to ADEQ's continued progress in pretreatment commensurate with its increased target numbers.

Data Management and Reporting: Just as in SFY13, ADEQ did not meet its commitment to enter discharge monitoring reports and state inspection and enforcement actions into EPA's ICIS-NPDES national database in SFY14. Due to data programming issues, ADEQ stopped flowing NPDES data into ICIS as of mid-November 2012. In the interim, ADEQ continued to enter permit and monitoring information into its state databases.

Without NPDES data in ICIS, EPA's view of discharger compliance data and state activities is severely limited. In particular, EPA cannot generate the QNCR history of major facilities in Significant Non Compliance (SNC). As a stop-gap measure, ADEQ did generate a QNVR of majors from its Azurite database. However, without the ICIS QNCR, compiling a list of SNCs

would require significant resource-intensive manual efforts, which neither ADEQ nor EPA could provide. ADEQ did submit its quarterly compliance reviews and reports to EPA on time.

Enforcement: In SFY14, ADEQ filed 1 civil complaint, issued 8 Administrative Orders, closed 2 Administrative Orders and 1 Consent Decree, issued 58 Notices of Opportunity to Correct (NOCs) and Notices of Violation (NOVs) and closed 43 NOCs and NOVs. ADEQ continues to use informal enforcement tools and anticipates new processes established by the LEAN exercise will improve overall compliance efforts.

Major facilities are flagged as being in SNC if they have acute or chronic effluent limit violations that exceed EPA's criteria for magnitude and duration. Facilities may also be flagged as SNC for late submittal of discharge monitoring reports. Given ADEQ's data management issues discussed above, neither ADEQ nor EPA could generate a list of SNC violations during SFY14. Flagging SNC violations is an important tool for targeting enforcement to the highest priority violations. State enforcement response to SNC violations is a critical measure that EPA uses in our oversight of State NPDES enforcement programs

Concerns:

ADEQ's inability to flow data into ICIS from mid-November 2012 has significantly impacted EPA's ability to monitor and evaluate ADEQ's Surface Water Compliance and Enforcement program as detailed in Task 1.4.3 of the integrated SFY14 Work Plan. The requirement for NPDES permit, compliance monitoring data and enforcement data entry is required as part of the program approval and described in the MOA. ADEQ has been aware of the need for updated data transfer protocols since 2009 and has been working on it intermittently since then. Since February 2013, EPA HQs has provided contract help to ADEQ with virtually unlimited expert technical assistance, which ADEQ's IT Department has used in their efforts to program systems for flowing NPDES data to EPA's ICIS database. Despite this available assistance, project completion deadlines established by the IT Department have not been realistic, as evidenced by extended project completion dates with almost every bi-weekly status report. The initial project completion date of June 30, 2013 was last officially extended by ADEQ to January 17, 2014 with no actual completion by that date, despite being reportedly 95% complete since the week of August 9, 2013.

EPA was not able to effectively oversee the SFY13 and SFY14 workplan progress, nor is it able to effectively oversee the current SFY15 workplan progress. Additionally, EPA's ability to conduct the AZ State Review Framework, an enforcement-led multi-media evaluation of compliance using FFY13 data, was severely impacted. ADEQ missed the February 19, 2014 data "freeze" HQs deadline; the data was finally manually "frozen" on June 16, 2014, but it proved to be unreliable with many errors. During the SRF site visit the week of July 7, 2014, problems with the data, such as the number of facilities actually in SNC, remained. As of the SFY14 EOY discussion on August 26, 2014, the ICIS data still could not be used reliably.

Safe Drinking Water Act

The annual end of year program evaluation of the Arizona Public Water System Supervision (PWSS) Program was conducted via conference call on October 30, 2014. The program evaluation covers activities implemented under the ADEQ Water Quality Division (WQD) Drinking Water and Compliance Sections for State Fiscal Year 2014 (SFY14) beginning July 1, 2013 through June 30, 2014. The program activities were supported in part with federal funding provided under SDWA Section 1443(a) Grants to States and under Section 1452(g) State Revolving Loan Funds. The FY14 allotment to the Arizona PWSS program was \$1.439M.

During this past year, organizational changes were made to the ADEQ WQD at the Unit level. All WQD engineering review units were combined and moved to the DW Section from the Groundwater (GW) Section. The DW Program Unit gained two new staff members from the APP Unit in the GW Section to support capacity development and operator certification programs. During the course of the year, the DW program filled three (3) positions vacated by retirements. The Monitoring & Protection Unit has two vacant positions, a unit supervisor that moved to a senior technical staff position and a source water protection specialist. The Compliance Section combined the Enforcement and Data Units reducing the number of units from four to three. Three (3) field inspectors have separated from ADEQ whose vacancies are to be filled in the next fiscal year.

Rule Development

Efforts are underway with the delegated county agency, Maricopa County, to develop the state implementation plan for the newly revised Total Coliform Rule (rTCR). The revised rule will impact the Consumer Confidence Rule and Public Notice primacy revision crosswalks submitted in SFY13 and which will need to be amended to address the new rTCR provisions. The DW section needs to complete the primacy revision packages for Stage 1 D/DBPR, Stage 2 D/DBPR, and primacy crosswalk of ADHS sections of Arizona Administrative Code including the updates mandated by the rTCR which were to be submitted in FY14. Arizona's Administrative Penalty Authority was submitted to EPA Region 9 in FY14 and is undergoing review by the Region.

Data Management

ADEQ's use of the most current version of SDWIS/State (Version 3.21) will position the State to transition to SDWIS/Prime in the future. ADEQ plans to delay transition until SDWIS/Prime is fully capable to address rTCR tracking and all add-on applications are functional. EPA recommends development of a transition plan for migration of data to SDWIS-Prime. ADEQ does not have the resources to participate in SDWIS Prime development workgroups led by EPA. Planning is ongoing but EPA does not know when to expect their use of SDWIS lab-to-state. The DW Section has made significant progress to achieve a low error rate for quarterly inventory, actions and sample data uploads to SDWIS/Fed and performs better relative to other states with few inventory errors and a few violation errors (mainly 430 violation "package" errors), down from 2011 but up from 2013.

The DW Section has prioritized the correction of treatment data ID and treatment plants without treatments. Data quality reporting issues to SDWIS/Fed include: number of Open-Ended Violations Greater than Five Years Old including many CCR (71) and some LCR (51/52) violations. The DW Section reviews water systems that have not had 90th percentile lead levels reported to SDWIS/Fed to determine if the missing data results from non-compliance, data entry issues, or problems with reporting the data to EPA. The DW Section will document required violation data that they do not report to SDWIS/Fed and assess barriers to full reporting.

Rule Implementation and Outreach and Training

ADEQ uses the automatic compliance determination modules in SDWIS/State for all rules with the exception of the Surface Water Treatment and Public Notification rules. This ensures that compliance determinations are being made accurately and consistently as violations are posted.

The county delegation agreements for Maricopa and Pima counties were extended through year 2050. Pima County Department of Environmental Quality (PDEQ) has an expanded delegation agreement for most engineering review approvals (Line Extensions, Production Well Facilities, Storage Facilities, and Other Treatment Facilities all limited to privately-owned facilities). Unlike Maricopa County Environmental Services Department (MCESD), PDEQ cannot permit Point-of-Use treatment units or Blending facilities. MCESD and PDEQ are both delegated Compliance and Enforcement and sanitary survey authority for a total 217 PWSs and 170 PWSs, respectively. PDEQ can also make the determination that the geological report for on-site wastewater treatment facilities demonstrates total nitrogen loading from the treatment facilities to groundwater is controlled and does not contribute to a violation of the Aquifer Water Quality Standard for nitrate at the applicable point of compliance. The total inventory of delegated PWSs under county jurisdiction, excludes those owned by the Federal government or the state, or those owned or operated by the counties, or by special districts subject to the control of the counties.

ADEQ continues to provide state-wide rules training events. The number of on-site inspections for FY14 to meet National Program measure SDW-1(a) for sanitary surveys as shown in the table below.

Sanitary Survey completion summary (10/2014)

| Source type (Compliance Period) | Total # of Sys | Total Complete Sanitary Surveys | Percent Complete |
|--|-----------------------|--|-------------------------|
| SW CWS (CY2011-2013) | 42 | 41 | 98% |
| ADEQ (inc SRO) | 27 | 27 | 100% |
| MCESD | 15 | 14 | 93% |
| GW CWS (CY2011-2013) | 703 | 630 | 90% |
| ADEQ (inc SRO) | 496 | 449 | 91% |
| MCESD | 89 | 80 | 90% |
| PDEQ | 118 | 101 | 86% |
| NCWS (CY2010-2014) | 787 | 766 | 97% |
| ADEQ (inc SRO) | 631 | 613 | 97% |
| MCESD | 111 | 110 | 99% |
| PDEQ | 41 | 41 | 100% |

The SFY14 Enforcement Targeting Tool (ETT) performance is shown in the table below. While the Compliance section has not been able to significantly reduce the “total” number of priority systems on the ETT over the course of the year, the State has been able to address the systems that were formally listed on the July 2014 ETT in meeting their commitment in the SFY14 workplan.

SFY14 Enforcement Targeting Tool (ETT) performance

| | Q1 | Q2 | Q3 | Q4 |
|---|----|-----|-----|----|
| Total # of Sys on ETT >=11 | 91 | 110 | 106 | 99 |
| Total PWS removed from ETT in SFY14 | - | 32 | 57 | 55 |
| Remaining PWS on ETT >=11 from SFY14 ETT commitment | - | 59 | 47 | 35 |

Laboratory Certification and Quality Assurance

Arizona Department of Health Services (ADHS) remains the lab certification agency for drinking water labs within the state of AZ. The ADEQ contract with ADHS for laboratory capacity was eliminated in SFY14 as a cost saving measure. Rather, a contract with a private lab has been put in place that meets the primacy requirements found at 40 CFR 142.10 for ensuring analytical capability for existing national primacy drinking water regulations. ADEQ will need to provide an annual assurance letter to EPA for meeting primacy requirements under 40 CFR 142.10.

Security and Emergency Response

ADEQ has not invested in Security and Emergency Response training events since the elimination of separate federal grant funding for water security activities. AZ operators across the state depend on EPA and FEMA sponsored training and the Maricopa County Waterborne Disease Taskforce for emergency response preparedness.

Operator Certification

ADEQ has not held an Operator Certification stakeholder meeting of the 11 member certification committee. EPA program guidelines require ongoing stakeholder involvement during the revision and operations of State operator certification programs. Ongoing stakeholder involvement is important to meet the public health objectives of the program. ADEQ is planning to hold a stakeholder meeting to discuss Operator Certification fees in SFY15. EPA does not want to limit stakeholder involvement to the operator certification program to the official committee. EPA encourages ADEQ to report on all opportunities for stakeholders to give input to the program including RWIC meetings and Rural Water Association of Arizona conferences involving ADEQ.

New and Existing System Capacity Development

The Capacity Development program has not significantly changed since first developed with the exception of reduced outreach to existing systems. The vacancy left by Capacity Development coordinator Kathy Stevens was quickly filled. No change in the number of System Evaluations

or follow up third-party technical assistance occurred this past year. The Water System Compliance initiative held a second meeting of co-regulators (ADEQ- Drinking Water and Compliance Sections, ADEQ Southern Regional Office, WQD Director's office, WIFA, ACC and the delegated county agencies). The Water System Compliance Initiative will remain a priority focus for SFY 15.

Findings and Recommendations:

1. Three (3) field inspectors have separated from ADEQ whose vacancies are to be filled in the SFY15.
2. The Drinking Water Section needs to complete the primacy revision packages for Stage 1 D/DBPR, Stage 2 D/DBPR, and Primacy crosswalk of ADHS sections of Arizona Administrative Code including the updates mandated by the rTCR which were to be submitted in FY14.
3. EPA recommends development of a transition plan for migration of data to SDWIS-Prime.
4. The Drinking Water Section has made significant progress in achieving a low error rate for reporting quarterly inventory, actions and sample data to SDWIS/Fed, performing better relative to other states.
5. The Drinking Water Section will document required violation data that they do not report to SDWIS/Fed and assess barriers to full reporting
6. ADEQ succeeded in reducing the number of systems that were formally listed on the July 2014 ETT in meeting their commitment in the SFY14 workplan.
7. A contract with a private lab capable of providing analytical services for all NPDWRs pursuant to primacy requirements of 40 CFR 142.10 has been put in place. ADEQ will need to provide an annual assurance letter to EPA for meeting primacy requirements under 40 CFR 142.10.
8. ADEQ has not held an Operator Certification stakeholder meeting of the 11 member certification committee. EPA encourages ADEQ to report on all opportunities for stakeholders to give input to the program including RWIC meetings and Rural Water Association of Arizona conferences involving ADEQ.
9. The Water System Compliance Initiative will remain a priority focus for SFY 15.

Source Water Protection

The Drinking Water Monitoring and Protection Unit manages Arizona's efforts to prevent contamination of ground and surface sources of drinking water. The Arizona statewide source water *assessment* (a Safe Drinking Water Act requirement) found the most prevalent and threatening contaminant risks to public water systems include: UST/LUSTs, superfund sites, agriculture, septic systems, marinas, and golf courses. Since the SDWA does not require source water *protection*, ADEQ's strategy is to use the assessment results to encourage/inspire public water systems and the communities they serve to formulate and apply protection strategies; ADEQ also provides them with technical assistance to do so. An additional, important component of ADEQ's strategy is education and outreach at schools and other public forums where the program explains the benefits of protection, i.e. prevention cheaper than treatment. They also help inspired/interested communities develop and adopt land use policies such as a wellhead protection ordinance or zoning policy. The Protection Unit works internally within ADEQ to investigate and/or remediate contamination risks. The internal process often leads to external coordination and recommendations for further remediation action by other federal, state, local agencies.

Highlights:

Despite staffing challenges in the last quarter, FY14 was still a productive year for the ADEQ source water protection (SWP) program. The SWP Program achieved both of its EPA PAM FY14 targets: 39% of community water systems (CWS) where risk to public health is minimized by source water protection, and 86% percent of the population served by CWS where risk to public health is minimized by source water protection. Program priorities continue to focus on: Identifying Most Prevalent and Threatening Contaminant Risks; UST/LUST Data Evaluations; Non-Petroleum Data Evaluations; School Outreach; GPS Well Project; and CWS Database Queries. An outreach program for schools that operate their own public water system was launched in February 2008 in association with ADEQ's Children's Environmental Health Initiative and continues to be an effective protection tool.

Follow-up Actions:

Although not a required follow-up action per se, during the EOY call the SWP Program graciously agreed to begin looking for ways to coordinate with ADEQ Clean Water Act (CWA) programs. EPA will help with the initial task of identifying source water protection areas within priority watersheds (e.g., impaired waters targeted for TMDL implementation) as identified by the ADEQ NPS/TMDL programs. In the next year, EPA will also help the SWP Program consider other CWA tools to minimize potential contamination threats to sources of drinking water.

Ground Water Program

Arizona Department of Environmental Quality (ADEQ) does not have an EPA-approved Underground Injection Control (UIC) State permitting program. Therefore, EPA's Drinking Water Protection Section (DWP) works with ADEQ's Aquifer Protection Permit (APP) Program to share information for separate underground injection permitting responsibility to regulate injection activities in Arizona. EPA's DWP communicates and coordinates with the ADEQ's APP Program on injection activities requiring both a federal UIC permit and a state APP usually

with groundwater related issues and common concerns. The permitting application requirements and process of the two programs have similarities and differences. Sharing of information and regular updates allows us to work out inconsistencies and improve our response, where appropriate.

DWP has shared information with APP staff specifically on the permitted Morton Salt facility and the proposed Florence Copper Production Test Facility (PTF). The proposed PTF is under consideration for a federal UIC permit and a highly opposed project by the Florence community. Working with ADEQ has been very successful during this grant period and useful to help meet our goals to protect underground sources of drinking water (USDW) as defined under the Safe Drinking Water Act.

ADEQ also works with Arizona Department of Water Resources (ADWR) to evaluate potential for adverse impacts to groundwater quality from recharge injection wells or recharge basins. Recharge is a means of storing excess water supplies underground so that they may be used in the future. ADWR encourages treated wastewater to be reused in this way to replenish groundwater supplies. Both ADWR and ADEQ's APP program have permitting requirements for injection of treated wastewater used for aquifer recharge and recovery. ADEQ's APP program evaluates these projects and requires an APP, unless exempted, to protect the receiving aquifer from potential contaminants. EPA's DWP receives information from ADEQ on the reviews of these recharge projects to ensure that the injection of treated wastewater meets our UIC requirements for Class V injection wells. The updated information on the latest projects was acceptable.

In addition to coordinating on permitting projects, ADEQ has provided annual updates to EPA of its drywell (Class V injection wells) database for EPA's national UIC database. A person, who owns an existing or proposed drywell in Arizona, must register the drywell with ADEQ. ADEQ's APP Program evaluates these wells to determine the need for a general APP to protect Arizona aquifers that serve as drinking water sources. EPA also requires owners/operators of injection wells (ie, drywells or any other Class V injection well), which are "authorized by rule" pursuant to the Class V UIC requirements, to submit inventory information for the federal database. The drywell update from ADEQ ensures that our UIC database is up-to-date for this type of well. Current ADEQ drywell information had some accuracy issues, but was provided to our database manager in acceptable format.

Follow-up Actions:

1. EPA's DWP will continue quarterly communications and coordination with ADEQ's APP Program on the permitted Morton Salt facility and the proposed Florence Copper PTF. This update has been more frequent (on a monthly basis) with permitting activity related to the proposed Florence Copper PTF.
2. DWP will also continue to obtain updates annually of drywell database registrations and quarterly of new or existing injection activities that may need federal over-sight.

Drinking Water Enforcement

The Compliance Section along with the Southern Regional Office Compliance Program Unit (SROCU) in Tucson is responsible for sanitary surveys, compliance and enforcement and works closely with the Drinking Water Section. Per the FY 2014 OECA ACS Commitment for Drinking Water, the primacy agency must address with a formal enforcement action or return to compliance the number of priority systems equal to the number of its PWS that have a score of 11 or higher on the July 2013 Enforcement Targeting Tool (ETT) report. This system-based approach uses a formula that allows EPA to prioritize public water systems for possible enforcement actions by assigning each violation a weight or number of points based on EPA drinking water regulations and rules. Systems with an ETT score of 11 or higher, with unaddressed violations for more than six months are potential candidates for escalated enforcement actions. A primacy agency's success at addressing violations will be tracked by means of the quarterly ETT reports. While it remains the Enforcement Response Policy's (ERP) goal that a priority system's violations will be returned to compliance, a primacy agency has met its commitment under the 2014 SDWA ACS with respect to a priority system if the score for that system has been brought below, and remains below, eleven. At the beginning of FY 2014, there were 91 facilities with a score of 11 or higher. Maricopa County had 9 public water systems (PWSs) and Pima County had 12 PWSs under their delegation on the list. Overall, 63 PWSs were addressed in FY2014. Ten of these PWSs were addressed by delegated Counties. Specifically, 7 PWSs had a score of 11 or higher but are under ADEQ formal enforcement actions. One facility was an EPA enforcement action. Three facilities had a score of 11 or higher, but there were no outstanding violations in Drinking Water Watch or the violations had been resolved. However, these violations are still open due to data quality issues. During the regularly scheduled monthly conference calls between ADEQ and EPA, we discussed EPA/State workshare (i.e., list of specific systems) for addressing public water systems with a score of 11 or higher. No enforcement cases were referred to EPA by ADEQ in SFY14, nor did EPA conduct any inspections in Arizona at State PWSs. Arizona's progress made on addressing the ETT is shown in Table 1 below.

The state issued a total of 12 administrative orders during FY14. One of the orders included a civil penalty of \$3,000 for Pine Valley Water Company. The Compliance Section closed four administrative orders upon the facilities meeting their compliance schedules. The Utility Field Services Unit issues informal Drinking Water Enforcement Actions including Notices of Opportunity to Correct (NOCs) and/or Notices of Violation (NOVs). The two Field Services units issued a total of 155 informal enforcement notices. These two units closed 163 informal enforcement notices during FY14.

Table 1: Enforcement Targeting Tool (ETT) performance

| | Q1 | Q2 | Q3 | Q4 |
|--|----|-----|-----|----|
| Total # of Sys on ETT >=11 | 91 | 110 | 106 | 99 |
| Total PWS removed from FY13 ETT | - | 32 | 57 | 55 |
| Remaining PWS on ETT >=11 from FY14 ETT commitment | - | 59 | 47 | 35 |